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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,476	07/23/2003	Paul W. Skinner	021028-000120US	1328
37490	7590	12/01/2005	EXAMINER	
CARPENTER & KULAS, LLP 1900 EMBARCADERO ROAD SUITE 109 PALO ALTO, CA 94303			NGUYEN, DINH Q	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Julia

Office Action Summary	Application No.	Applicant(s)	
	10/626,476	SKINNER, PAUL W.	
	Examiner	Art Unit	
	Dinh Q. Nguyen	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 35-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall, III in view of Otten et al.

Hall, III discloses a vegetation dispensing device comprising: a conduit 190 with a channel 195 (see figure 14), an outlet 232 for conveying a substance 206a-c, a sensor 200 for sensing growing conditions and communicated with the conduit 231 via controller 10 (see figure 15), a flow control 205 for regulating an amount of substance, a microprocessor control system 10, the plurality of sensors such as soil moisture, ground temperature, ion concentration (as disclosed in column 15, lines 34-60). Hall, III does not disclose the sensor being coupled to the conduit. However, Otten et al. discloses a fluid control device with fluid flowing conduit 23 with sensor 137 couple to the conduit 23 for sensing flowing conditions and relay signals to processor 37 (see figure 15).

Therefore, it would have been obvious to one having ordinary skill in the art to configure the device of Hall, III with a sensor being coupled to the conduit as suggested by Otten et al. Doing so would provide a way to control fluid dispensing within the system (see Otten's column 1, lines 29+)

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With respect to claims 41, 43-47, 50, 52, and 53, Hall, III in view of Otten et al. do not disclose expressly the sensors such as leaf wetness sensor, insect sensor, DNA sensor, sugar accumulation sensor, pheromone sensor or protein sensor etc. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the Hall, III device with the above sensors, because Applicant has not disclosed that the above sensors provides an advantage, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with any of the above sensors because they provide a way to monitor a condition of vegetation. Therefore, it would have been an obvious matter of design choice to modify the device of Hall, III and Chaplinsky to obtain the invention as specified in claims 41, 43-47, 50, 52, and 53. Furthermore, it is obvious to one skilled in the art to provide the Hall, III and Otten et al. device with any type of sensors (see Hall, III column 15, lines 43-45).

Response to Arguments

3. Applicant's arguments filed 8/25/05 have been fully considered but they are not persuasive.
4. Applicant's arguments with respect to claims 35-57 have been considered but are moot in view of the new ground(s) of rejection.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q Nguyen
Primary Examiner
Art Unit 3752

dqn